

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KEONNA L. JOHNSON,

Case No. 3:11-CV-366

Plaintiff,

Judge Thomas M. Rose

-v-

CITY OF ENGLEWOOD, et al.,

Defendants.

**ENTRY AND ORDER GRANTING MONTGOMERY COUNTY, OHIO'S
MOTION TO DISMISS (Doc. #3) AND DISMISSING MONTGOMERY
COUNTY**

Plaintiff Keonna L. Johnson ("Johnson") initially filed her Complaint in the Court of Common Pleas of Montgomery County, Ohio. The Complaint was subsequently removed by the Defendants.

Following removal, Montgomery County, Ohio ("Montgomery County"), one of the named Defendants moved to dismiss the claims against it. (Doc. #3.) The time has run and Johnson has not responded to Montgomery County's Motion To Dismiss. The Motion is, therefore, ripe for decision.

Montgomery County seeks to have Johnson's Complaint against it dismissed pursuant to Fed. R. Civ. P. 12(b)(6) because the Complaint fails to state a claim against Montgomery County upon which relief can be granted. Specifically, Montgomery County argues that it cannot be sued.

Montgomery County seeks dismissal pursuant to Fed. R. Civ. P. 12(b)(6). "A court should not dismiss a plaintiff's complaint under Rule 12(b)(6) unless, after construing the

complaint in the light most favorable to the plaintiff and accepting all factual allegations as true, the court determines that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.” *Nelson v. Miller*, 170 F.3d 641, 649 (6th Cir. 1999).

A county is a subdivision of the state, organized for judicial and political purposes.

Schaffer v. Board of Trustees of Franklin County Veterans Memorial, 168 N.E.2d 547, 549 (Ohio 1960). It is not a legal person or a separate political entity. *Id.* As a result, counties are not able to sue or be sued. *See McGuire v. Ameritech Services, Inc.*, 253 F. Supp.2d 988, 1015 (S.D. Ohio 2003).

Montgomery County is a subdivision of the state of Ohio. As a result, Montgomery County cannot be sued.

Construing Johnson’s Complaint in a light most favorable to Johnson, there are no set of facts in support of her claim against Montgomery County that would entitle her to relief against Montgomery County. Thus, Montgomery County’s unopposed Motion To Dismiss (doc. #3) is GRANTED. Montgomery County is dismissed as a defendant in this action.

DONE and **ORDERED** in Dayton, Ohio this First Day of December, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record